

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE  
PHONE (317) 232-3775  
FAX (317) 232-8779



INDIANA GOVERNMENT CENTER NORTH  
100 NORTH SENATE AVENUE N1058 (B)  
INDIANAPOLIS, IN 46204

## MEMORANDUM

TO: County Auditors and County Assessors

FROM: Cheryl A.W. Musgrave, Commissioner *CWM*  
Timothy J. Rushenberg, General Counsel *TJR*

DATE: June 2, 2008

SUBJECT: Changes to the Sales Disclosure Form

1. The purpose of this memorandum is to inform all county auditors and county assessors of the changes to the sales disclosure form (SDF) statute that were made at the 2008 legislative session of the Indiana General Assembly. House Enrolled Act (HEA) 1293 (P.L. 144-2008), Section 51 required the Department of Local Government Finance ("Department") to create a SDF that reflects the requirements of the new law. In order to incorporate suggestions made by County Auditors at the Auditor's Conference, **the new SDF and form instructions are currently being finalized and will be disseminated in the next 7-10 days.** This memorandum is being provided in advance of the form in order to prepare county auditors and county assessors for the changes to the law. Additionally, there are inconsistencies between HEA 1293 and HEA 1001 (P.L. 146-2008) with regards to the homestead credit and homestead standard deduction ("standard deduction"), which this memorandum will address.

2. With regards to the SDF, some of the amendments to the SDF process are significant, and require the Department to modify the existing form to reflect the changes to the law. For example, the SDF may be used as an application for the homestead credit and standard deduction, solar energy heating/cooling system, wind power device, hydroelectric power device, and geothermal energy heating/cooling device deductions for taxes first due and payable in 2009. Also, the **June 11** filing deadline for these deductions for owners of real property was eliminated.

3. "Conveyance" defined.

HEA 1293 (P.L. 144-2008), Section 1 amended IC 6-1.1-5.5-1, **effective July 1, 2008 and applying to a conveyance that occurs after June 30, 2008**, to change the definition of "conveyance" to mean "any transfer of a real property interest for valuable consideration."

4. "Conveyance document" defined.

a. HEA 1293, Section 2 amended IC 6-1.1-5.5-2, **effective July 1, 2008 and applying to a conveyance that occurs after June 30, 2008**, to change the definition of "conveyance document" to mean any of the following:

(1) Any of the following that purports to transfer a real property interest for "valuable consideration" (e.g., money, performance, promise of performance):

(A) A document.

(B) A deed.

(C) A contract of sale.

(D) An agreement.

(E) A judgment.

(F) A lease that includes the fee simple estate (i.e., owner entitled to entire property with unconditional power of disposition during life)) and is for a period in excess of ninety (90) years.

(G) A quitclaim deed (i.e., deed conveying any title, interest, or claim in land, but does not profess that title is valid nor containing any warranties or covenants for title) serving as a source of title.

(H) Another document presented for recording.

(2) Documents for compulsory transactions as a result of foreclosure or express threat of foreclosure, divorce, court order, condemnation, or probate. **Before the amendment in HEA 1293, this document was not considered to be a conveyance document.**

(3) Documents involving the partition of land between tenants in common, joint tenants, or tenants by the entirety. **Before the amendment in HEA 1293, this document was not considered to be a conveyance document.**

b. "Conveyance document" still does not include:

(1) Security interest documents such as mortgages and trust deeds.

(2) Leases that are for a term of less than ninety (90) years.

(3) Agreements and other documents for mergers, consolidations, and incorporations involving solely non-listed stock.

(4) Quitclaim deeds not serving as a source of title.

5. Forwarding SDF; confidentiality of information.

a. HEA 1293, Section 3 amended IC 6-1.1-5.5-3, **effective as of July 1, 2008 and applying to a conveyance that occurs after June 30, 2008**, and made significant changes. The following is a summary of changes:

b. *SDF Process*. Before filing a “conveyance document” with the county auditor under IC 6-1.1-5-4 [see paragraph 6 below], all parties to the conveyance must do the following:

(1) Complete and sign a SDF. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form. **For conveyance transactions that involve more than two (2) parties, it is sufficient for one (1) transferor and one (1) transferee to sign the SDF.**

(2) Submit the SDF to the county assessor. The county assessor must review the accuracy and completeness of each SDF submitted immediately upon receipt of the form and, if the form is accurate and complete, stamp or otherwise approve the SDF as eligible for filing with the county auditor and return the form to the appropriate party for filing with the county auditor. If multiple forms are filed in a short period, the county assessor must process the forms as quickly as possible. A SDF is considered to be accurate and complete if:

(a) the county assessor lacks “substantial evidence” that the information on the SDF is inaccurate; and

(b) **both of the following conditions are satisfied:**

(i) The SDF contains the required information in IC 6-1.1-5.5-5(a)(1)-(16)(e.g., key number of each parcel, address of each improved parcel, legal description of each parcel, etc...) [see paragraph 7]. A party has an obligation to furnish and correct that information, subject to the penalty provisions of IC 6-1.1-5.5-12. The SDF may *not* be rejected so long as it contains the required information in IC 6-1.1-5.5-5(a)(1)-(16).

(ii) The SDF is submitted to the county assessor in a usable format.

(3) File the SDF with the County Auditor.

c. *SDF as Application for Homestead Credit and Other Deductions*. **The county auditor must review each SDF and process any homestead credit and deduction for which the SDF serves as an application under IC 6-1.1-12-44 [solar energy heating/cooling system, wind power device, hydroelectric power device, geothermal energy heating/cooling device deductions] and IC 6-1.1-20.9-3.5 [homestead credit and standard deduction].** The county auditor must forward each SDF to the county assessor. **The county assessor must verify the assessed valuation of the property** for the assessment date to which the application applies and **transmit that assessed valuation to the county auditor**. Similar processes apply in a county containing a consolidated city (e.g., Marion County), except HEA 1001, Section 94 made changes that acknowledges the possible role of a township assessing official in the aforementioned SDF verification procedure.

d. *One SDF, One Parcel.* A separate SDF is required for each parcel conveyed, regardless of whether more than one (1) parcel is conveyed under a single conveyance document. **However, only one (1) SDF is required if there is a *single conveyance document* that conveys two (2) or more *contiguous* parcels located entirely within a *single taxing district*.**

6. Filing fee.

a. *\$10 SDF Filing Fee.* HEA 1293, Section 4 amended IC 6-1.1-5.5-4, **effective on July 1, 2008 and applying to a conveyance that occurs after June 30, 2008**, to require that a person filing a SDF pay **ten dollars (\$10)** to the county auditor. This change was made to reflect a non-Code provision that was added in 2005, which increased the filing fee to ten dollars (\$10).

b. *Exemption from Filing Fee.* A new provision **exempts a filing fee** where the SDF is filed for a conveyance:

(1) to a charity;

(2) as a result of foreclosure or express threat of foreclosure, divorce, court order, condemnation, or probate; or

(3) involving the partition of land between tenants in common, joint tenants, or tenants by the entirety.

c. *Distribution of Fee Proceeds.* **Fifty percent (50%)** of the filing fee revenue and the penalty fees collected must be deposited in the county sales disclosure fund established, and the other **fifty percent (50%)** of the revenue is to be transferred to the state treasurer for deposit in the state assessment training fund. This change in the distribution was made to reflect a non-Code provision that was added in 2005.

7. Required Contents of SDF.

a. HEA 1293, Section 5 amended IC 6-1.1-5.5-5, **effective July 1, 2008 and applying to a conveyance that occurs after June 30, 2008**. The statute still requires the Department to prescribe a SDF for use. However, changes were made to the contents of the SDF. The form must include "at least" the following information:

(1) The key number (as defined in IC 6-1.1-1-8.5) of **each parcel** (i.e., the number assigned to a tract of land in a county by a county auditor that: (1) identifies the taxing district in which the tract is located; (2) is a number that is not assigned to any other tract in the county; and (3) is listed in the transfer book or records).

(2) **With respect to each parcel**, whether the entire parcel is being conveyed.

(3) The address of **each improved parcel**.

(4) The date of the execution of the form.

- (5) The date the property was transferred (i.e., date sale closed or completed).
- (6) Whether the transfer includes an interest in land or improvements, or both.
- (7) Whether the transfer includes personal property.
- (8) An estimate of **the value of** any personal property included in the transfer.
- (9) The name, address, and telephone number of:
  - (A) each transferor and transferee; and
  - (B) the person that prepared the form.
- (10) The mailing address to which the property tax bills or other official correspondence should be sent.
- (11) The ownership interest transferred.
- (12) The classification of the property (e.g., residential, commercial, industrial, agricultural, vacant land, or other).
- (13) The total price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, property, a service, an agreement, or other consideration, but excluding tax payments and payments for legal and other services that are incidental to the conveyance. **This is *not* required to be listed if only one (1) SDF is used for a conveyance, under a single conveyance document, of two (2) or more *contiguous* parcels located *entirely* within a single taxing district.**
- (14) The terms of seller provided financing, such as interest rate, points, type of loan, amount of loan, and amortization period, and whether the borrower is personally liable for repayment of the loan.
- (15) Any family or business relationship existing between the transferor and the transferee.
- (16) **A legal description of each parcel subject to the conveyance.**
- (17) **Whether the transferee (e.g., buyer) is using the SDF to claim the following for property taxes first due and payable in a calendar year in 2009 and thereafter:**
  - (A) **One (1) or more deductions under IC 6-1.1-12-44** [solar energy heating/cooling system, wind power device, hydroelectric power device, geothermal energy heating/cooling device deductions].
  - (B) **The homestead credit under IC 6-1.1-20.9-3.5** [homestead credit and standard deduction].

(18) **If the transferee uses the SDF to claim the homestead credit, the name of any other county and township in which the transferee of residential real property owns or is buying residential real property.**

(19) Other information as required by the Department.

b. *Confidentiality of Telephone Number and SSN.* If the SDF includes the telephone number or social security number (SSN) of a party, the telephone number and the SSN are confidential.

c. *Instructions for SDF.* The instructions for completing the form still must include the information described in IC 6-1.1-12-43(c)(1)[list each deduction specified and homestead credit (repealed effective January 1, 2009); list the eligibility criteria for each deduction; and indicate that a new application for a deduction is required when residential real property is refinanced].

d. *Multiple Parcels on One SDF Not Required to List Price for Each Parcel:* If the conveyance includes more than one (1) parcel and only one (1) SDF is required because the conveyance is under a single conveyance document transferring two (2) or more contiguous parcels located entirely within a single taxing district, the SDF:

(1) is not required to include the price paid in exchange for the conveyance (IC 6-1.1-5.5-5(a)(13)) for each of the parcels subject to the conveyance; and

(2) may state a single combined price for *all* of those parcels.

#### 8. Requirements for Recording of Conveyance Document.

a. HEA 1293, Section 6 amended IC 6-1.1-5.5-6, **effective on July 1, 2008 and applying to a conveyance that occurs after June 30, 2008**, to prevent the county auditor from accepting a conveyance document if the following applies:

(1) SDF is signed by all the parties and attested as required under IC 6-1.1-5.5-9 (i.e., under penalties of perjury that to the best of the person's knowledge and belief the information contained in the SDF is true and correct), is *not* included with the document; or

(2) SDF does *not* contain the information required by IC 6-1.1-5.5-5(a)(1)-(16) (e.g., key number of each parcel; address of each improved parcel; legal description of each parcel subject to the conveyance, etc...). A party has an obligation to furnish and correct that information, subject to the penalty provisions of IC 6-1.1-5.5-12.

b. **The county recorder is prohibited from recording a conveyance document without evidence that the parties have filed with the county auditor a SDF approved by the county assessor as eligible for filing under IC 6-1.1-5.5-3(b)(2)[county assessor reviews the accuracy and completeness of each SDF. SDF is accurate and complete if: (A) county assessor does not have substantial evidence that information in the form is inaccurate; and (B) both of the following conditions are satisfied: (i) SDF contains the required information in IC 6-1.1-5.5-5(a)(1)-(16); (ii) SDF is submitted to the county assessor in a usable format].**

9. Attestation.

IC 6-1.1-5.5-9 remains unchanged. Thus, the law still reads that a person who signs a SDF must attest in writing and under penalties of perjury that to the best of the person's knowledge and belief the information contained in the SDF is true and correct.

10. Infractions.

a. HEA 1293, Section 7 amended IC 6-1.1-5.5-10, **effective as of July 1, 2008 and applying to a conveyance that occurs after June 30, 2008**, to increase the penalty for a person "who knowingly and intentionally": (1) falsifies the value of transferred real property; or (2) omits or falsifies any information required to be provided in the SDF to a **Class C felony** [per IC 35-50-2-6, imprisoned for a fixed term of between two (2) and eight (8) years, with the advisory sentence being four (4) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000)]. The former penalty was a Class A misdemeanor [per IC 35-50-3-2, imprisoned for a fixed term of not more than one (1) year; in addition, may be fined not more than five thousand dollars (\$5,000)].

b. It is still a Class A infraction for a "public official who knowingly and intentionally accepts": (1) a SDF for filing that: (A) falsifies the value of transferred real property; or (B) omits or falsifies any information required to be provided in the sales disclosure form; or (2) a conveyance document for recording in violation of IC 6-1.1-5.5-6 [not signed by the necessary parties and attested; or did not contain the required information].

c. HEA 1293, Section 50 states that this section on infractions, as amended, **applies to crimes committed after June 30, 2008.**

11. Penalties.

a. *30-day Period to Correct Inaccurate SDF.* HEA 1293, Section 8 amended IC 6-1.1-5.5-12, **effective July 1, 2008 and applying to a conveyance that occurs after June 30, 2008**, to state that a party to a conveyance who:

(1) either:

(a) files a SDF that does not contain all of the required information; or

(b) files a SDF that contains inaccurate information;

-- and receives from the township assessor (in a county containing a consolidated city) or the county assessor (in any other county) written notice of the abovementioned problems; and

(2) fails to file a correct SDF that fully complies with all of the statutory requirements within thirty (30) days after the date of the written notice from the assessing official;

-- is subject to a penalty as determined in IC 6-1.1-5.5-12(b).

b. *Penalty Amounts Remain Unchanged.* The amount of the penalty remains unchanged, and is as follows:

(1) the amount of the penalty is the greater of:

(a) one hundred dollars (\$100); or

(b) twenty-five thousandths percent (0.025%) of the sale price of the real property transferred under the conveyance document.

(2) The township assessor in a county containing a consolidated city, or the county assessor in any other county, must:

(a) determine the penalty;

(b) assess the penalty to the party to a conveyance; and

(c) notify the party to the conveyance that the penalty is payable within thirty (30) days after notice of the assessment.

(3) The county auditor must:

(a) collect the penalty imposed;

(b) deposit penalty collections; and

(c) notify the county prosecuting attorney of delinquent payments.

(4) The county prosecutor must initiate an action to recover a delinquent penalty. In a successful action against a person for a delinquent penalty, the court must award the county prosecutor reasonable attorney's fees.

## 12. Deductions Available on SDF.

### a. *Solar Energy Heating or Cooling System.*

(1) HEA 1293, Section 29 amended IC 6-1.1-12-27.1, effective as of January 1, 2008 (retroactive) and **applies only to property taxes first due and payable in 2009 and thereafter** to permit a person who desires to claim the solar energy heating or cooling system deduction provided IC 6-1.1-12-26. **The June 11 filing deadline for real property was deleted and now just requires the person file the application at any time "during the year for which the person desires to obtain the deduction."** With respect to an annually assessed (i.e., non-real property) mobile home, the person must still file the application during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. The applicant for the deduction now must: **(1) own the real property, mobile home, or manufactured home; or (2) be buying the real property, mobile home, or manufactured home under contract, on the date the statement is filed, in order to receive the deduction. On verification of the**



**application by the assessing official, the county auditor must allow the deduction.**

(2) IC 6-1.1-12-26 [solar energy heating or cooling system] was not changed.

*b. Wind Power Device.*

(1) HEA 1293, Section 30 amended IC 6-1.1-12-30, effective as of January 1, 2008 (retroactive) and **applies only to property taxes first due and payable in 2009 and thereafter.** This amended section with respect to real property **eliminated the June 11 filing deadline.** Now the application must be filed any time “during the year for which the person desires to obtain the deduction.” With respect to an annually assessed (i.e., non-real property) mobile home, the law still requires that the person file the application for the deduction during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. The applicant for the deduction now must: **(1) own the real property, mobile home, or manufactured home; or (2) be buying the real property, mobile home, or manufactured home under contract, on the date the application is filed in order to receive the deduction. On verification of the application by the assessing official, the county auditor must allow the deduction.**

(2) IC 6-1.1-12-29 [wind power device] was not changed.

*c. Hydroelectric Power Device.*

(1) HEA 1293, Section 32 amended IC 6-1.1-12-33 effective as of January 1, 2008 (retroactive) and **applies only to property taxes first due and payable in 2009 and thereafter.** HEA 1293 added a subparagraph that states that the deduction applies only if the property owner **owns the real property or mobile home, or is buying the real property or mobile home under contract on the date the application is filed.**

(2) HEA 1293, Section 35 amended IC 6-1.1-12-35.5 [certified statements; determination of deductions; appeals], effective as of January 1, 2008 (retroactive) and **applies only to property taxes first due and payable in 2009 and thereafter.**

(a) A person who desires to claim the hydroelectric power device deduction is still required to file a certified statement on a form prescribed by the Department, or a SDF, and proof of certification from the department of environmental management (IDEM) for the hydroelectric power device with the county auditor. For real property, the person must file the application any time during the year for which the person wishes to obtain the deduction. **Thus, the June 11 filing deadline has been eliminated.** With respect to annually assessed mobile homes, the person must still file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction.

(b) Other changes were made to IC 6-1.1-12-35.5. Specifically, for applications for the hydroelectric power device deduction, IDEM must determine whether the device qualifies for a deduction. If IDEM fails to make a determination about the deduction before December 31 of the year in which the application is received, the system or device is considered the certified. As a result of the changes in HEA 1293, the May 11 deadline for the filing of the application for

certification with IDEM was eliminated. Additionally, the June 11 deadline by which IDEM needed to determine whether the system or device qualified for a deduction was also eliminated.

d. *Geothermal Energy Heating or Cooling Device.*

(1) HEA 1293, Section 33 amended IC 6-1.1-12-34, effective as of January 1, 2008 (retroactive) and **applies only to property taxes first due and payable in 2009 and thereafter.** It added a subparagraph that states the geothermal energy heating or cooling device **deduction applies only if the property owner owns the real property or mobile home, or is buying the real property or mobile home under contract on the date the application is filed.**

(2) HEA 1293, Section 35 amended IC 6-1.1-12-35.5 [certified statements; determination of deductions; appeals], effective as of January 1, 2008 (retroactive) and **applies only to property taxes first due and payable in 2009 and thereafter.**

(a) A person who desires to claim **geothermal energy heating or cooling device deduction** is still required to file a certified statement on a form prescribed by the Department or a SDF, **and** proof of certification from IDEM with the county auditor. For real property, the person must file the application any time during the year for which the person wishes to obtain the deduction. **Thus, the June 11 filing deadline has been eliminated.** With respect to annually assessed mobile homes, the person must still file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction.

(b) Other changes were made to IC 6-1.1-12-35.5. Specifically, for applications for the geothermal energy heating or cooling device deduction, if IDEM receives an application for certification, IDEM must determine whether the device qualifies for a deduction. **If IDEM fails to make a determination about the deduction before December 31 of the year in which the application is received, the system or device is considered the certified.** As a result of HEA 1293, the May 11 deadline for the filing of the application for certification with IDEM was eliminated. Additionally, the June 11 deadline by which IDEM needed to determine whether the system or device qualified for a deduction was also eliminated.

13. Deductions and the SDF.

a. *Eligibility for Following Year.* IC 6-1.1-12-36 was not changed by any legislation in 2008. It still states that a person who receives a solar energy heating or cooling system, wind power device, hydroelectric power device, or geothermal energy heating or cooling device deduction for a particular year and who remains eligible for the deduction for the following year is **not required to file a new application for the deduction.** However, if a person who receives the deduction becomes ineligible for it for the following year, the person is required to notify the county auditor **before March 31** of the year for which the person becomes ineligible. The county auditor must, in a particular year, apply the deduction to each person who received the deduction in the previous year unless the county auditor determines that the person is no longer eligible for the deduction.

b. *Use of SDF as Application.*

(1) HEA 1293, Section 37 added IC 6-1.1-12-44 to the Indiana Code, effective as of January 1, 2008 (retroactive) and **applies only to property taxes first due and payable in 2009 and thereafter**. This new section of the Code states that a SDF that is submitted as a paper form or electronically **on or before December 31** of a calendar year to the county assessor by or on behalf of the purchaser of a homestead assessed as real property; that is accurate and complete; that is approved by the county assessor as eligible for filing with the county auditor; and that is filed as a paper form or electronically; with the county auditor by or on behalf of the buyer; constitutes an application for the solar energy heating or cooling system, wind power device, hydroelectric power device, or geothermal energy heating or cooling device deduction with respect to property taxes first due and payable in the calendar year that immediately follows the calendar year in which the SDF is filed.

(2) In other words, if the SDF is filed on December 31, 2008, the deduction will apply to the May 10, 2009 and November 10, 2009 property tax bills. If the county auditor receives in a calendar year a SDF that meets the aforementioned requirements; *and* the homestead for which the SDF is submitted is otherwise eligible for the deduction, the county auditor must apply the deduction to the homestead for property taxes first due and payable in the calendar year for which the homestead qualifies and in any later year in which the homestead remains eligible for the deduction. However, if the county auditor, after receiving a SDF determines that the homestead is ineligible for the deduction, the deduction will not be applied to the homestead.

c. *Application of Deductions to Property Taxes.*

(1) *“Carry Over” Provision.* HEA 1293, Section 38 added IC 6-1.1-12-45 to the Indiana Code, **effective as of January 1, 2008 (retroactive)** and applying to property taxes first due and payable **in 2009 and thereafter**. This new section of the Code is a “carry over” provision to ensure the various deductions do not lapse after the transfer of property. A deduction applies for an assessment date and for the property taxes due and payable based on the assessment for that assessment date (e.g., May 10, 2009 and November 10, 2009 property tax bills for the March 1, 2008 assessment date), regardless of whether the title is conveyed one (1) or more times, or one (1) or more contracts to purchase are entered into after that assessment date (e.g., March 1, 2008) and on or before the next succeeding assessment date (e.g., on or before March 1, 2009).

(a) This “carry over” provision applies only if the title holder or the contract buyer on that next succeeding assessment date (e.g., March 1, 2009) is eligible for the deduction for that next succeeding assessment date (e.g., March 1, 2009); and regardless of whether one (1) or more grantees of title, or one (1) or more contract purchasers files an application to claim the deduction(s).

(b) The “carry over” deduction(s) applies for only one (1) year. The requirements for filing a statement to apply for a deduction apply to subsequent years.

(2) *Application of Deduction(s) to Property Taxes Due and Payable from Assessment Date.* **If an application is filed in a calendar year (e.g., on or before December 31, 2008) to claim a deduction with respect to real property; *and* the eligibility criteria for the deduction**

are met, the deduction applies for the assessment date in that calendar year (e.g., March 1, 2008) and for the property taxes due and payable based on the assessment for that assessment date (e.g., May 10, 2009 and November 10, 2009 property tax bills). If an application is filed in the designated twelve (12) month filing period (e.g., on or before March 31, 2009) to claim a deduction with respect to an annually assessed mobile home or a manufactured home; and the eligibility criteria for the deduction are met, the deduction applies for the assessment date in that twelve (12) month period (e.g., January 15, 2009) and for the property taxes due and payable based on the assessment for that assessment date (e.g., May 10, 2009 and November 10, 2009 property tax bills).

***Example of Deduction Applying to Following Calendar Year's Tax Bill:***

Mr. Smith buys a new home and uses the SDF to apply for a hydroelectric power device deduction on October 1, 2008. If he is eligible to receive such a deduction and follows all of the proper statutory steps discussed in IC 6-1.1-12-33 and IC 6-1.1-12-35.5 (i.e., IDEM certification, etc...), the deduction will apply to his May 10, 2009 and November 10, 2009 property tax bills even though he did not own the home or make the application for the credit on the SDF until *after* the March 1, 2008 assessment date.

***Example of "Carry Over" Provision:***

Mr. Jones bought a house on July 1, 2008, applied for the wind power device deduction on a regular application form, and was deemed eligible in accordance with IC 6-1.1-12-29 and IC 6-1.1-12-30. On February 1, 2009, Mr. Jones sells his home to Mr. Samuel. Mr. Samuel files a SDF and makes the wind power deduction application on his SDF. Since Mr. Samuel's deduction application was filed on the SDF in February 2009, his deduction will not apply until his May 10, 2010 and November 10, 2010 property tax bills. However, Mr. Jones's wind power device deduction, which he applied for and was determined to be eligible for in July 2008, entitled him to receive the benefits of the deduction for his May 10, 2009 and November 10, 2009 property tax bills. Under the "carry over" provision, Mr. Jones's wind power device deduction "carries over" and applies to Mr. Samuel's property taxes due and payable on May 10, 2009 and November 10, 2009 ***only if*** Mr. Samuel on March 1, 2009 is "eligible for the deduction" on March 1, 2009. This is the case even though the house was bought by Mr. Samuel on February 1, 2009. This "carry over" provision will only benefit Mr. Samuel for one year; specifically, the property taxes due and payable on his new home on May 10, 2009 and November 10, 2009. Fortunately, since Mr. Samuel applied for and was determined to be eligible for the wind power device deduction through his filing of the SDF in February 2009, Mr. Samuel will receive the benefits of his wind power device deduction for his property taxes due and payable in 2010.

**14. Homestead Credit and Standard Deduction Conflicts.**

a. *Homestead Credit Statute Repeal Effective January 1, 2009.* The changes made in HEA 1293 are effective as of January 1, 2008 (retroactive) and applying to property taxes first due and payable in ***2009 and thereafter***. However, **HEA 1001 repeals IC 6-1.1-20.9 [homestead credit] effective on January 1, 2009**. Thus, there is confusion as to the applicability of these changes in HEA 1293 to the homestead credit for taxes due and payable in 2009. It is the hope

of the Department that the General Assembly will clarify and correct the inconsistencies between HEA 1293 and HEA 1001 with regards to the homestead credit and standard deduction. Until that time and in accordance with HEA 1001, Section 115, this memorandum will address these issues and provide guidance to county auditors on how best to proceed.

b. *Homestead Credit/Standard Deduction Changes.* Current law provides that a taxpayer that is eligible for a homestead credit is eligible for a standard deduction. However, for taxes due and payable in 2009 and 2010, HEA 1001, sections 849 and 850 reverse the rule and states that a taxpayer that is eligible for a standard deduction is eligible for the homestead credit:

(1) The attached **SDF** will allow for the application of the homestead credit and standard deduction to eligible owners for taxes first due and payable in **2009 and thereafter**. Even though HEA 1001, section 813 repeals IC 6-1.1-20.9 [homestead credit] **effective on January 1, 2009**, a **homestead credit will still be available to eligible homestead owners until 2010** under the following statutory provisions in HEA 1001:

(a) Section 848, effective on July 1, 2007 (retroactive), grants an owner entitled to a **homestead credit** under IC 6-1.1-20.9 for **2007-pay-2008** (2008-pay-2008 for annually assessed mobile homes) an additional homestead credit. The total amount of the additional homestead credit is \$620,000,000 and will be distributed to each county.

(b) Section 849, effective on July 1, 2008, gives a taxpayer entitled to a **standard deduction** under IC 6-1.1-12-37 for **2008-pay-2009** (2009-pay-2009 for annually assessed mobile homes) a homestead credit. The total amount of homestead credits is \$140,000,000 and will be distributed to each county.

(c) Section 850, effective on July 1, 2008, gives a taxpayer entitled to a **standard deduction** under IC 6-1.1-12-37 for **2009-pay-2010** (2010-pay-2010 for annually assessed mobile homes) a homestead credit. The total amount of homestead credits is \$80,000,000 and will be distributed to each county.

(2) The Department hereby provides that **individuals currently qualifying for the homestead credit on a particular homestead** under IC 6-1.1-20.9 before December 31, 2008 **are eligible for the standard deduction in 2009 on the same homestead**, as amended in HEA 1001, **without having to file a new application for the standard deduction**. This is to ensure consistency with both the spirit and language of HEA 1293. Additionally, a SDF that is submitted as a paper form or electronically **on or before December 31, 2008** to the county assessor by or on behalf of the purchaser of a homestead assessed as real property; that is accurate and complete; that is approved by the county assessor as eligible for filing with the county auditor; and that is filed as a paper form or electronically with the county auditor, by or on behalf of the purchaser, **constitutes an application for the standard deduction with respect to property taxes first due and payable in 2009 and thereafter**.

(3) The assessment date (March 1 or January 15) ownership/contract requirement to obtain a homestead standard deduction in HEA 1001, Section 115 will need to be eliminated. This requirement is a direct and irreconcilable conflict with HEA 1293 and will particularly affect tax bills for 2010 and subsequent years unless amended.

c. *Adoption of Rules for Homestead Application Process.* HEA 1293, Section 53, effective upon passage on March 24, 2008, requires the Department to adopt rules before January 1, 2009 to establish guidelines to enforce the application of the homestead credit only to an individual's principal place of residence as required by IC 6-1.1-20.9-1(2). However, as has been discussed above, HEA 1001, Section 813 repeals IC 6-1.1-20.9, effective as of January 1, 2009; thus, there is no reason why the Department should adopt rules pertaining to IC 6-1.1-20.9 since it will be repealed on January 1, 2009.

15. Homestead Credit.

a. This section describes the changes made to the homestead credit in HEA 1293. These changes are currently in effect for taxes due and payable in 2009, but will be repealed by HEA 1001 in January 1, 2009. **Thus, until its repeal on January 1, 2009, the following changes made in HEA 1293 and HEA 1001 to the homestead credit are currently the law and must be followed.**

b. *Definition of Homestead.* HEA 1001, Section 229, amended IC 6-1.1-20.9-1 and is effective upon passage, March 19, 2008. "Homestead" is now defined as an individual's principal place of residence which:

(1) is located in Indiana;

(2) the individual:

(a) owns;

(b) is buying under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; or

(c) **is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); and**

(3) consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

c. *Eligibility for Homestead Credit.* HEA 1293, Section 40 amended IC 6-1.1-20.9-2, effective as of January 1, 2008 (retroactive) and **applying only to property taxes first due and payable in 2009 and thereafter** made the following changes:

(1) An individual who in a particular year either owns or is buying a homestead under a contract that provides the individual is to pay the property taxes on the homestead is entitled each calendar year to a credit against the property taxes which the individual pays on the homestead. However, only one (1) individual may receive a credit for a particular homestead in a particular year. With respect to real property or an annually assessed mobile home or manufactured home, the individual must own the real property, mobile home, or manufactured home; or be buying the real property, mobile home, or manufactured home under contract on the date the application, or

SDF, is filed. **The March 1 ownership/contract requirement was eliminated.**

(2) **Before October 1 of each year**, the county assessor must furnish to the county auditor the amount of the assessed valuation of each homestead for which a homestead credit has been properly filed. **The county assessor must update the information not later than December 31 of that year.**

(3) The amount of the credit to which the individual is entitled equals the product of:

(a) the percentage prescribed above (e.g., 20% for 2008); multiplied by

(b) the amount of the individual's property tax liability, as that term is defined in IC 6-1.1-21-5, which is:

(i) attributable to the homestead during the particular calendar year; and

(ii) determined after the application of the property tax replacement credit under IC 6-1.1-21 [property tax replacement fund].

(4) For purposes of determining that part of an individual's property tax liability that is attributable to the individual's homestead, **all deductions from assessed valuation which the individual claims under IC 6-1.1-12 [assessed value deductions] or IC 6-1.1-12.1 [deduction for rehabilitation or redevelopment of real property in economic revitalization areas] for property on which the individual's homestead is located must be applied first against the assessed value of the individual's homestead before those deductions are applied against any other property.**

(5) The percentage of the credit is as follows:

YEAR	PERCENTAGE OF THE CREDIT
1996	8%
1997	6%
1998 through 2002	10%
2003 through 2005	20%
2006	28%
<b>2007 and thereafter</b>	<b>20%</b>

-- However, the percentage credit allowed in a particular county for a particular year must be increased if on January 1 of a year an ordinance adopted by a county income tax council was in effect in the county which increased the homestead credit. The amount of the increase equals the amount designated in the ordinance.

**(6) The county auditor must apply the credit equally to each installment of taxes that the individual pays for the property.**

(7) A taxpayer other than an individual is entitled to the homestead credit if:

(a) an individual uses the residence as the individual's principal place of residence;

(b) the residence is located in Indiana;

(c) the individual has a beneficial interest in the taxpayer;

(d) the taxpayer either owns the residence or is buying it under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; and

(e) the residence consists of a single-family dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

d. *Application for Credit.* HEA 1293, Section 41 amended IC 6-1.1-20.9-3, effective January 1, 2008 (retroactive) and **applying only to property taxes first due and payable in 2009 and thereafter**. Unless application is on the SDF, an individual who desires to claim the homestead credit must file a certified statement in duplicate, on forms prescribed by the Department, with the county auditor in which the homestead is located. With respect to real property, the **application must be filed during the year prior to the first year for which the person wishes to obtain the credit for the homestead**. Thus, the **June 11 filing deadline was eliminated**. However, with respect to an annually assessed mobile home or manufactured home, the statement still must be filed during the twelve (12) months before March 31 of the first year for which the individual wishes to obtain the credit.

e. *Use of SDF as Application for Homestead Credit.*

(1) HEA 1293, Section 42 added IC 6-1.1-20.9-3.5 as a new section to the Indiana Code, **effective as of January 1, 2008 (retroactive) and apply only to property taxes first due and payable in 2009 and thereafter**. This new section states that a SDF that is submitted as a paper form or electronically **on or before December 31** of a calendar year (e.g., December 31, 2008) to the county assessor by or on behalf of the purchaser of a homestead assessed as real property; that is accurate and complete; that is approved by the county assessor as eligible for filing with the county auditor; and that is filed as a paper form or electronically with the county auditor by or on behalf of the purchaser, constitutes an application for the homestead credit with respect to property taxes first due and payable in the calendar year that immediately follows the calendar year (e.g., May 10, 2009 and November 10, 2009).

(2) If the county auditor receives in a calendar year a SDF that meets the aforementioned requirements, and the homestead for which the SDF is submitted is eligible for the homestead credit, the county auditor must apply the credit to the homestead for property taxes first due and payable in the calendar year for which the homestead qualifies (e.g., May 10, 2009 and November 10, 2009) and in any later year in which the homestead remains eligible for the credit.



(3) However, if after receiving a SDF from or on behalf of the buyer, the county auditor determines that the homestead is ineligible from the credit, the county auditor must not apply the credit.

f. *Transmittal of credit statement to other county if individual owns or is buying in other county; return with notation to original county.* HEA 1293, Section 43 amended IC 6-1.1-20.9-4, **effective as of January 1, 2008 (retroactive) and to apply only to property taxes first due and payable in 2009 and thereafter**, to state that the county auditor that receives a statement or SDF applying for the credit must immediately prepare and transmit a copy of the statement or SDF to the county auditor of any other county if the individual who claims the credit or files the SDF owns or is buying real property located in the second county. The county auditor of the second county must note on the copy of the statement or SDF whether or not the individual has claimed the credit for the current year for a homestead located in the second county. The auditor must then return the copy to the auditor of the first county.

g. *Alphabetical file of credit statements.* HEA 1293, Section 44 amended IC 6-1.1-20.9-5, **effective as of January 1, 2008 (retroactive) and to apply only to property taxes first due and payable in 2009 and thereafter**. The statute requires the county auditor each year to place the original copies of all applications for the homestead credit (i.e., certified statement/application and SDF) in alphabetical order by townships; and without regard to townships, place any duplicate copies for the entire county in alphabetical order. The county auditor must determine from the alphabetical files whether or not more than one (1) application (i.e., statement or SDF) was filed by the same individual. The county auditor may not grant an individual a homestead credit if:

(1) the individual, for the same year, claims the credit:

(a) on two (2) or more different statements;

(b) by submitting two (2) or more different SDFs; *or*

(c) through any combination of statements and SDFs; *and*

(2) as a result the credit is claimed for more than one (1) homestead.

h. *Application of the Credit to Property Taxes.*

(1) "Carry Over" Provision. HEA 1293, Section 45 amended IC 6-1.1-20.9-7, **effective on January 1, 2008 (retroactive) and to apply to property taxes first due and payable in 2009 and thereafter**. This new section provides that a homestead credit "carries over" and applies to the property taxes due and payable based on the assessment for an assessment date (e.g., May 10, 2009 and November 10, 2009 property taxes from March 1, 2008 assessment date), regardless of whether the title is conveyed one (1) or more times, or one (1) or more contracts to purchase are entered into after that assessment date (e.g., March 1, 2008) and on or before the next succeeding assessment date (e.g., March 1, 2009).

(a) This “carry over” provision applies only if the title holder or the contract buyer on the next succeeding assessment date (e.g., March 1, 2009) is “eligible for the credit for property taxes due and payable based on the assessment for that next succeeding assessment date” (e.g., May 10, 2010 and November 10, 2010 property tax bills for the March 1, 2009 assessment date); **and** regardless of whether one (1) or more grantees of title or one (1) or more contract purchasers files an application to claim the homestead credit.

(b) A “carry over” homestead credit applies for only one (1) year. The requirements for filing an application to apply for a homestead credit apply to subsequent years.

(2) *Homestead Credit Applies to Property Taxes Due and Payable in the Following Year.*  
**If a person files an application in a calendar year (e.g., on or before December 31, 2008) to claim a homestead credit with respect to real property, the credit applies for the property taxes due and payable in the immediately succeeding calendar year (e.g., May 10, 2009 and November 10, 2009 property tax bills).** If a person files a statement in the designated twelve (12) month filing period (e.g., on or before March 31, 2009) to claim a homestead credit with respect to an annually assessed mobile home or a manufactured home, the homestead credit applies to the property taxes due and payable in the immediately succeeding twelve (12) month period (e.g., property taxes due and payable on May 10, 2009 and November 10, 2009).

***Example of Credit Applying to Following Calendar Year’s Tax Bill:***

Mr. Smith buys a new home and uses the SDF to apply for a homestead credit on October 1, 2008. If he is eligible to receive such a credit and follows all of the proper statutory steps discussed in IC 6-1.1-20.9, the credit will apply to his May 10, 2009 and November 10, 2009 property tax bills even though he did not own the home or make the application for the credit on the SDF until *after* the March 1, 2008 assessment date.

***Example of “Carry Over” Provision:***

Mr. Jones bought a house on July 1, 2008, applied for the homestead credit on the SDF, and was deemed eligible in accordance with IC 6-1.1-20.9. On February 1, 2009, Mr. Jones sells his home to Mr. Samuel. Mr. Samuel makes the homestead credit application on his SDF and files it with the county assessor. Since Mr. Samuel’s homestead credit application was filed on the SDF in February 2009, his homestead credit will not apply until his May 10, 2010 and November 10, 2010 property tax bills. However, Mr. Jones’s homestead credit, which he applied for and was determined to be eligible for in July 2008, entitled him to receive the benefits of the credit for his May 10, 2009 and November 10, 2009 property tax bills. Under the “carry over” provision, Mr. Jones’s homestead credit “carries over” and applies to Mr. Samuel’s property taxes due and payable on May 10, 2009 and November 10, 2009 **only if** Mr. Samuel on March 1, 2009 is “eligible” (i.e., owns or is buying under contract and responsible for the taxes) for the credit for property taxes due and payable on May 10, 2010 and November 10, 2010. This is the case even though the house was bought by Mr. Samuel on February 1, 2009. This “carry over” provision will only benefit Mr. Samuel for one year; specifically, the property taxes due and payable on his new home on May 10, 2009 and November 10, 2009. Fortunately for Mr. Samuel, since he applied for and was determined to be eligible for the homestead credit through his filing of the

SDF in February 2009, Mr. Samuel will continue to receive the benefits of his homestead credit for his property taxes due and payable in 2010.

16. Homestead Standard Deduction. HEA 1001, Section 115, **effective on January 1, 2009**, amended IC 6-1.1-12-37 [standard deduction] as discussed below.

a. *Definition of "Dwelling" and "Homestead"*. The following definitions were added and reflect the current definitions in IC 6-1.1-20.9 [homestead credit] as amended by HEA 1001:

(1) "Dwelling" means residential real property improvements that an individual uses as the individual's residence, including a house or garage; or an annually assessed mobile home or manufactured home that an individual uses as the individual's residence.

(2) "Homestead" means an individual's principal place of residence that:

(a) is located in Indiana;

(b) the individual:

(i) owns;

(ii) is buying under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence; or

(iii) **is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); and**

(c) consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

b. *Assessment Date Ownership/Contract Requirement*.

(1) **Each year an individual who on March 1 of a particular year** or, in the case of a mobile home that is assessed as personal property, the immediately following **January 15**, either owns or is buying a homestead under a contract, recorded in the county recorder's office, that provides the individual is to pay property taxes on the homestead is entitled to a standard deduction from the assessed value of the homestead. The auditor of the county shall record and make the deduction for the person qualifying for the deduction.

(2) The assessment date (March 1 or January 15) ownership/contract requirement to obtain a homestead standard deduction will need to be eliminated by the General Assembly in the next legislative session in 2009. **This requirement is a direct and irreconcilable conflict with HEA 1293.** This provision does not go into effect until January 1, 2009, but will need to be addressed by the legislature next session.

c. *Amount of Standard Deduction.*

(1) Except for the limits on the sum of deductions for annually assessed mobile homes and manufactured homes in IC 6-1.1-12-40.5 (discussed below), the total amount of the standard deduction a person may receive for a particular year is the lesser of: sixty percent (60%) of the assessed value of the real property, or annually assessed mobile home or manufactured home; or forty-five thousand dollars (\$45,000).

(2) IC 6-1.1-12-40.5, which was not amended by any legislation in 2008, states that “**notwithstanding any other provision,**” the sum of the deductions to an annually assessed mobile home or manufactured home “**may not exceed one-half (1/2) of the assessed value of the mobile home or manufactured home.**”

(3) There appears to be a conflict between IC 6-1.1-12-40.5, which limits the sum of the deductions for an annually assessed mobile home and manufactured home to “one-half (1/2) of the assessed value of the mobile home or manufactured home,” and IC 6-1.1-12-37 that states the total amount of the standard deduction is the lesser of “sixty percent (60%) of the assessed value” of the real property, or annually assessed mobile home and manufactured home, or forty-five thousand dollars (\$45,000). The key phrases to consider in IC 6-1.1-12-40.5 are “notwithstanding any other provision” and in IC 6-1.1-12-37, which says, “Except as provided in section 40.5 of this chapter [IC 6-1.1-12-40.5]...” **When reading those provisions together, the limits in IC 6-1.1-12-40.5 to “one-half (1/2) of the assessed value of the mobile home or manufactured home” are controlling in regards to the standard deduction.** However, please note the limits in IC 6-1.1-12-40.5 (i.e., “one-half (1/2) of the assessed value of the mobile home or manufactured home) does not apply to the supplemental standard deduction in IC 6-1.1-12-37.5, which is discussed in greater detail below.

d. *Who May Claim the Deduction.*

(1) The law still states that a person who has sold real property, or an annually assessed mobile home or manufactured home to another person under a contract that provides that the contract buyer is to pay the property taxes may not claim the standard deduction.

(2) The county auditor may not grant an individual or a married couple a standard deduction if:

(a) the individual or married couple, for the same year, claims the standard deduction on two (2) or more different applications for the deduction; and

(b) the applications claim the deduction for different property.

e. *Department of Local Government Finance. The Department must adopt rules or guidelines concerning the application for a standard deduction.*

17. Supplemental Homestead Deduction. HEA 1001, Section 116, effective on January 1, 2009 and **applying to property taxes first due and payable in 2009 and thereafter**, grants a person who is entitled to a standard deduction in IC 6-1.1-12-37 to receive a supplemental deduction

from the assessed value of the homestead by creating a new section of the Code, IC 6-1.1-12-37.5.

a. *Amount of Supplemental Deduction.* The amount of the supplemental deduction is equal to the sum of the following:

(1) **thirty-five percent (35%) of the assessed value that is less than six hundred thousand dollars (\$600,000).**

(2) **twenty-five percent (25%) of the assessed value that is more than six hundred thousand dollars (\$600,000).**

b. *County Auditor's Responsibilities.*

(1) The county auditor must record and make the deduction for the person qualifying for the deduction.

(2) This deduction granted must *not* be considered in applying the limits in IC 6-1.1-12-40.5. IC 6-1.1-12-40.5 states that the sum of the deductions provided to an annually assessed mobile home or manufactured home may not exceed one-half (1/2) of its assessed value.

18. Exclusions from tax duplicate; county auditor reduction of assessed value.

a. HEA 1293, Sections 39 and 48, added provisions that allow the county auditor to make adjustments for the removal of the June 11 filing deadlines for the various deductions in HEA 1293. Specifically, Section 39 amended IC 6-1.1-17-0.5, effective upon passage, March 19, 2008. However, Section 48 states that **IC 6-1.1-17-0.5, as amended by HEA 1293, applies to property taxes first due and payable in 2009 and thereafter.** Specifically, the county auditor may, for each taxing unit located in the county, reduce for a calendar year (e.g., 2009) the taxing unit's assessed value that is certified to the Department and used to set tax rates for the taxing unit (i.e., net assessed values) for taxes first due and payable in the following calendar year (e.g., 2010). The county auditor may make such a reduction only to enable the taxing unit to absorb the effects of reduced property tax collections in the following calendar year (e.g., 2010) that are expected to result from **any or a combination of the following:**

(1) Successful appeals of the assessed value of property located in the taxing unit.

(2) **Deductions under IC 6-1.1-12-37** [homestead credit; standard deduction] that result from the granting of applications for the homestead credit for the calendar year (e.g., 2009) after the county auditor certifies assessed value.

(3) **Deductions that result from the granting of applications for deductions for the calendar year under IC 6-1.1-12-44** [SDF constituting application for deduction] after the county auditor certifies assessed value.

b. **Not later than December 31 of each year**, the county auditor must send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each

political subdivision of the county and to the Department. The certified statement must list any adjustments to the amount of the assessed value reduction and the information necessary as the result of processing homestead credit applications and deduction applications filed after the county auditor certifies assessed value.


c. The county auditor must keep separately on the tax duplicate the amount of any reductions made. **The amount of the reduction in a taxing unit's assessed value for a calendar year may not exceed two percent (2%)** of the assessed value of tangible property subject to assessment in the taxing unit in that calendar year.

19. If you have any questions about this memorandum, please contact the Department's legal department at (317) 232-3777.


Attachments:


Deduction Application Deadline Chart

# Deductions Deadlines


 **Owred Home**  
ownership at any point in time  
throughout the calendar year

Changes based HEA 1293 - 2008

 **Filed for Deduction**













 **Taxpayer sees benefit of  
Deduction**

December 31: Ownership  
Deadline

 **Payable Year**

 **Accrual Year**

December 31: Deduction  
Filing Deadline

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
<b>Last Year</b>												
<b>This Year</b>												
<b>Next Year</b>					